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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/501,730	02/10/2000	Merry R. Sherman	MVIEW.0050A	4303

7590 11/17/2003

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WASHINGTON, DC 20005-3934

EXAMINER

PAK, YONG D

ART UNIT	PAPER NUMBER
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1652

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/501,730

Applicant(s)

SHERMAN ET AL.

Examiner

Yong D Pak

Art Unit

1652

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 09 September 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: .

3. ☒ Applicant's reply has overcome the following rejection(s): see attached.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-9, 17-28 and 33-41.Claim(s) withdrawn from consideration: 11-16.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

DETAILED ACTION

An appeal under 37 CFR 1.191 was filed in this application on September 9, 2003. Appellant's brief is due on April 9, 2003 in accordance with 37 CFR 1.192(a).

The amendment filed on September 9, 2003 under 37 CFR 1.116 in reply to the final rejection has been entered, but is not deemed to place the application in condition for allowance. For purposes of appeal, the status of the claims is as follows:

Allowed claim(s): none

Rejected claim(s): 1-9, 17-28 and 33-41

Claim(s) objected to: none

Claims 1-9, 11-28 and 33-41 are pending.

Election/Restrictions

Claims 11-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Response to Arguments

Applicant's arguments filed on September 9, 2003 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 102

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Claims 1-9, 17-28 and 33-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Williams et al.

Applicants have requested that this rejection be held in abeyance until an allowable subject matter is indicated, upon which applicants will file a terminal disclaimer.

Double Patenting

Claims 1-9, 17-28 and 33-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-33 of U.S. Patent No. 6,576,235. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are claiming common subject matter, as follows: uricase containing less than 2% of non-tetrameric aggregated uricase, various mutants of uricase and PEG-uricase.

Applicants have requested that this rejection be held in abeyance until an allowable subject matter is indicated, upon which applicants will file a terminal disclaimer.

Response to Amendment

The amendment filed on September 9, 2003 has overcome the rejection of claims 1, 4, 6 and 33 under 35 U.S.C. 102(b) as being anticipated by Aleman et al.

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The amendment filed on September 9, 2003 has overcome the rejection of claims 1-5 and 33-34 under 35 U.S.C. 103(a) as being unpatentable over Aleman et al. in view of Wu et al.

The amendment filed on September 9, 2003 has overcome the rejection of claims 1-7, 9 and 33 under 35 U.S.C. 103(a) as being unpatentable over Aleman et al. in view of Wu et al.

The amendment filed on September 9, 2003 has overcome the rejection of claims 1 and 17-25 and 27-28 under 35 U.S.C. 103(a) as being unpatentable over Aleman et al. in view of Delgado et al.

No claims are allowed.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Pak whose telephone number is 703-308-9363. The examiner can normally be reached on 6:30 A.M. to 5:00 P.M. Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on 703-308-3804. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Yong D. Pak
Patent Examiner

November 6, 2003


PONNATHAPU ACHUTAMURTHY
SUPERVISORY PATENT EXAMINER
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